
DIVISION 8. NATIVE PLANT PRESERVATION

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3.8.1 INTENT. Tucson's setting is in the Sonoran Desert, a unique biological community known as the Arizona Uplands found only in southern Arizona and limited areas of northern Mexico. Some of the plants and animals living in this area are found nowhere else in the world. One of the most distinctive plants is the Saguaro cactus (*Carnegiea gigantea*), a visual symbol synonymous with Tucson and the Sonoran Desert. The Saguaro, along with certain other Sonoran genus and species, is extremely slow growing and not easily transplanted with success.

Development in the Tucson area has decreased the number of these unique native plants resulting in the loss of a natural resource. City-wide goals and policies for preservation of the native plants found in the Sonoran Desert have been established in the *Vision: A Guide for the Future of the City of Tucson*, adopted in 1989 and in the *General Plan, Section 2, Vegetation and Wildlife*, adopted in 1992. This Division addresses the preservation of native Upland vegetation that provides much of the visual character of the Sonoran Desert and supports wildlife. (Ord. No. 9517, §3, 2/12/01)

This Division is intended to encourage preservation-in-place of healthy native plants through sensitive site design which minimizes the disruption of areas within the site containing native plants, while allowing for salvage and transplanting plants on the site that are likely to survive. The Division also provides for replacement of plants that are removed for development at ratios to assure site revegetation and to compensate for probable loss of transplanted and replacement plants. Mitigation credits are offered to encourage preservation-in-place. Mature trees and Saguaros should be given particular consideration for preservation-in-place. When preservation-in-place is not possible, emphasis should next be given to plant salvage for use elsewhere on the site, and lastly, if plants are removed from the site, the revegetation concept should emphasize the recreation of the natural character and plant distribution similar to the undisturbed vegetation on and adjacent to the subject site.

3.8.2 PURPOSE. These regulations provide for the preservation, protection, transplanting, and replacement of existing designated native plants including cacti, succulents, trees, and shrubs through the establishment of comprehensive procedures, requirements, and standards which protect the public health, safety, and general welfare by:

- Preserving a sense of place through the potential enhancement of the community's appearance from public streets and between incompatible land uses.
- Maintaining property values, the quality of life, and lifestyles valued and enjoyed by the community through the preservation of the unique Sonoran vegetation.
- Contributing to economic development through the maintenance of a regional identity that attracts tourism and new businesses, while promoting business retention and expansion.

- Improving air quality through the preservation of mature vegetation that removes carbon monoxide and filters dust and particulates from the air.
- Promoting water conservation through retention of existing drought-tolerant vegetation that requires no supplemental irrigation.
- Assisting in climate modification and reducing energy costs through the use of native vegetation to shade buildings, streets, sidewalks, and other outdoor areas.
- Retaining vegetative features of habitats that are important to native wildlife species.
- Stabilizing desert soils by minimizing soil erosion through preservation of or revegetation with native plants.

3.8.3 APPLICABILITY. The provisions of this Division apply to all development as listed below:

3.8.3.1 All new development.

3.8.3.2 Expansions of existing development.

- A. If the expansion is less than twenty-five (25) percent, the requirements of this Division apply only to the proposed expansion area.
- B. If the expansion is twenty-five (25) percent or greater or if expansions after March 24, 1997, cumulatively result in a twenty-five (25) percent or greater expansion in land area, floor area, lot coverage, or vehicular use area, the requirements of this Division apply to the proposed expansion area and the remaining undeveloped site area.

Editor's Note: Ord. No. 8845, Sec. 3.8.0 of the *Land Use Code*, was adopted by Mayor and Council on March 24, 1997, with an effective date of July 1, 1997.

3.8.3.3 Concurrent Applicability of Divisions. The requirements of this Division; the Hillside Development Zone (HDZ); the Environmental Resource Zone (ERZ); the Watercourse Amenities, Safety, and Habitat (WASH) ordinance; the Scenic Corridor Zone (SCZ); and the Landscape and Screening Regulations are all calculated separately. Plants or areas preserved or planted for the purposes of compliance with one regulation may be considered for the purposes of compliance with this Division.

3.8.3.4 Exceptions. The provisions of this Division do not apply to the following.

- A. Single family residential development on lots recorded before March 24, 1997, or single family residential development on a lot within a subdivision which is subject to an approved Native Plant Preservation Plan after the sale and development of a principal structure on that lot.
- B. Projects for which a site plan or a development plan as required under Sec. [5.3.8](#) of the *Land Use Code (LUC)* has been submitted or approved prior to July 1, 1997, provided that permits are obtained within one (1) year and that construction occurs in accordance with the site plan or development plan and within one (1) year of permit issuance.

- C. Single-family residential subdivisions for which a tentative plat has been submitted or approved prior to July 1, 1997, per Sec. 4.1.0, Subdivisions, provided the plat is recorded within one (1) year from the approval date of the final plat, infrastructure is in place, and fifty (50) percent of the lots are developed within five (5) years after July 1, 1997.
- D. Projects on a site that does not contain any plant on the Protected Native Plant List as demonstrated by the applicant per Development Standard 2-15.2.0 and subject to approval through procedures established at the Development Services Department (DSD). This application can be submitted prior to an applicable review process and approved for an exception on the site. The approved exception will be valid for up to one (1) year from the date of the approval. (Ord. No. 9246, §1, 10/11/99; Ord. No. 9392, §1, 5/22/00)
- E. Projects on a site or parcel that contains Protected Native Plants which will not be substantially impacted by development on the site as demonstrated by the applicant per Development Standard 2-15.2.0 and subject to approval through procedures established at the Development Services Department (DSD), provided that construction occurs per the approved plan. (Ord. No. 9392, §1, 5/22/00)

3.8.4 GENERAL PROVISIONS AND REQUIREMENTS.

3.8.4.1 Submittal Requirements. A Native Plant Preservation Plan per Development Standard 2-15.3.0 is required for all projects under the applicability of this Division according to the methodology selected by the applicant as outlined in Plant Preservation Requirements, Sec. 3.8.6.

- A. If the Plant Inventory Methodology is selected, a Native Plant Inventory per Development Standard 2-15.3.1, an Analysis per Development Standard 2-15.3.3, and a Plant Preservation and Salvage Plan per Development Standard 2-15.3.4 shall be submitted.
- B. If the Plant Appraisal Methodology is selected, a plant appraisal per Sec. 3.8.6.3 based on a Native Plant Inventory for each plant to be removed from the site per Development Standard 2-15.3.1 shall be submitted.
- C. If the Set Aside Methodology is selected, an Environmental Resource Report per Sec. 3.8.6.4 and Development Standard 1-07.0 shall be submitted.

3.8.4.2 Plan Approval Prior to Site Modifications. No grubbing, grading, construction, or salvaging of any plants on the site shall take place prior to the submittal and approval of the required Native Plant Preservation Plan. Protected Native Plants designated in Sec. 3.8.5 shall not be destroyed, damaged, salvaged, transplanted, or removed from the site except in accordance with the approved Plan. Once a Native Plant Preservation Plan has been approved, a salvage-only permit can be issued. The salvage-only permit can be issued upon completion of one of the following conditions:

- A. For rezoning or annexation cases, ordinance adoption by the Mayor and Council.
- B. For tentative plats or development plans, approval from all City departments and public and semipublic agencies that review the plat or plan. (Ord. No. 9392, §1, 5/22/00)
- C. For site plans, an official submittal to the Development Services Department (DSD) with all site plan review fees paid in full. (Ord. No. 9392, §1, 5/22/00)

The salvage-only permit does not allow site grubbing, grading, or construction of any kind, other than the salvaging of those materials as indicated on the approved Native Plant Preservation Plan. No protected native plants, even as indicated on the approved Native Plant Preservation Plan, may be destroyed or removed from the site until a grading permit has been issued for the project.

(Ord. No. 9246, §1, 10/11/99)

3.8.4.3 Plan Approval Prior to Permitting. The Native Plant Preservation Plan shall be submitted prior to or concurrently with any plan(s) and applicable fees required for development approval, including a grubbing/grading plan, landscape plan, site plan, development plan, or tentative plat. No permits shall be issued prior to submittal and approval of the Native Plant Preservation Plan. Plan submittal shall conform to Development Standard 2-15.0. (Ord. No. 9246, §1, 10/11/99; Ord. No. 9392, §1, 5/22/00)

3.8.4.4 Professional Expertise. Preparation of all elements of the Native Plant Preservation Plan and on-site monitoring as required under Sec. 3.8.6.7.D shall be performed by a plant professional, such as:

- A. An arborist certified by the International Society of Arboriculture.
- B. A landscape architect.
- C. A horticulturist, biologist, or botanist with a minimum B.A. or B.S. in an appropriate arid environment natural resource field.

(Ord. No. 9246, §1, 10/11/99)

3.8.4.5 Plant Disposition. The Native Plant Preservation Plan shall indicate the disposition of Protected Native Plants in excess of those needed to meet the requirements of this Division and other applicable regulations. It is encouraged that all Protected Native Plants that are not proposed to remain on-site be salvaged and transplanted off-site. The Plan shall affirm, by a statement on the Plan, conformance with the requirements of the Federal Endangered Species Act and the Arizona Native Plant Law. Applicants are advised of required salvage permits which must be obtained from the U.S. Fish and Wildlife Service for the applicable Endangered and Threatened genus and species and required notification which must be provided to the Arizona Department of Agriculture prior to site modification. Compliance with this Division does not constitute conformance with state or federal regulations. (Ord. No. 9246, §1, 10/11/99)

3.8.4.6 Repealed. (Ord. No. 9246, §1, 10/11/99)

3.8.5 PROTECTED NATIVE PLANT LIST.

ALL CACTI	
Common Name	Latin Name
Compass Barrel	<i>Ferocactus acanthodes</i>
Crested or Fan-top Saguaro	<i>Carnegiea gigantea</i> 'Crested'
Desert Night-blooming Cereus	<i>Peniocereus greggi</i>
Fishhook Barrel	<i>Ferocactus wislizenii</i>
Needle-spined Pineapple Cactus	<i>Echinomastus erectocentrus</i> var. <i>erectocentrus</i>
*Pima Pineapple Cactus	* <i>Coryphantha scheeri</i> var. <i>robustipina</i>
Saguaro	<i>Carnegiea gigantea</i>

TREES OF A MINIMUM SIZE OF FOUR (4) INCH CALIPER	
Common Name	Latin Name
Arizona Ash	Fraxinus velutina var. velutina or Fraxinus pennsylvanica spp. velutina
Arizona Black Walnut	Juglans major
Arizona Sycamore	Platanus racemosa Nutt. var. wrightii
Blue Palo Verde	Cercidium floridum
Catclaw Acacia	Acacia greggii var. arizonica
Desert Elderberry	Sambucus mexicana
Desert Hackberry	Celtis pallida
Desert Willow	Chilopsis linearis
Foothills Palo Verde	Cercidium microphyllum
Fremont Cottonwood	Populus fremontii sp. fremontii
Goodding Willow	Salix gooddingii
Ironwood	Olneya tesota
Net Leaf Hackberry	Celtis reticulata
Screwbean Mesquite	Prosopis pubescens
Western Soapberry	Sapindus saponaria var. drummondii
Whitethorn Acacia	Acacia constricta
Velvet Mesquite	Prosopis velutina

* Denotes plants listed as Endangered or Threatened under the Federal Endangered Species Act (ESA) as of March 24, 1997. Any plants designated by the ESA, as amended, shall be subject to the applicability of this ordinance.

SHRUBS OF A MINIMUM SIZE OF THREE (3) FEET IN HEIGHT	
Common Name	Latin Name
Catclaw Acacia	Acacia greggii var. arizonica
Desert Hackberry	Celtis pallida
Desert Willow	Chilopsis linearis
Greythorn	Zizyphus obtusifolia var. canescens
Kearney Condalia	Condalia warnockii var. kearneyana
Whitethorn Acacia	Acacia constricta

SUCCULENTS OF A MINIMUM SIZE OF TWO (2) FEET IN HEIGHT	
Common Name	Latin Name
Ocotillo	Fouquieria splendens
Soaptree Yucca	Yucca elata

3.8.6 PLANT PRESERVATION REQUIREMENTS.

- 3.8.6.1 Plant Preservation Methodologies. One of the following four methodologies shall be utilized to prepare a Native Plant Preservation Plan for Protected Native Plants on the project site. The applicant shall conform with all requirements of the Plant Inventory Methodology, Sec. 3.8.6.2; the Plant Appraisal Methodology, Sec. 3.8.6.3; the Set Aside Methodology, Sec. 3.8.6.4; or the Combined Methodologies, Sec. 3.8.6.5. The applicant shall state on the plans and/or in the report which methodology has been chosen. (Ord. No. 9246, §1, 10/11/99)

- 3.8.6.2 Plant Inventory Methodology. The Plant Inventory Methodology is based upon a Native Plant Inventory of all Protected Native Plants per Development Standard 2-15.3.1. The viability and transplantability of Protected Native Plants shall be rated according to Development Standard 2-15.3.2 and shall be used to determine the numbers and locations of plants required for preservation. The minimum number of Protected Native Plants required for preservation is based upon a percentage of the Viable Protected Native Plants inventoried on-site. In addition, this methodology provides for mitigation through the planting of replacement plants for Protected Native Plants which are damaged, destroyed, or removed from the site. The number of replacement plants required for mitigation is based upon the number of Viable Protected Native Plants that are removed from the site. The preservation-in-place of Protected Native Plants may be credited toward the number of mitigation plants required. Refer to Table 3.8.6-I and the Native Plant Preservation Worksheet, Exhibit I, Development Standard 2-15.3.4. The provisions of this subsection may be combined, or used in conjunction, with the Plant Appraisal Methodology or the Set Aside Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)
- A. *Minimum Protected Native Plant Preservation Requirements*. The minimum standards for the preservation of Protected Native Plants in the Plant Inventory Methodology shall be satisfied as follows.
1. *Endangered Species and “Crested” Saguaros*. One hundred (100) percent of Federal Endangered Species and “Crested” Saguaros shall be preserved-in-place or salvaged and transplanted on-site.
 2. *Saguaros and Ironwoods*. At least fifty (50) percent of all Viable Saguaros and Ironwood trees shall be preserved-in-place or salvaged and transplanted on-site.
 3. *Other Protected Native Plants*. At least thirty (30) percent of each genus and species of other Viable Protected Native Plant shall be preserved-in-place or salvaged and transplanted on-site.
- B. *Preservation Credits*. The preservation-in-place of certain Protected Native Plants, including those which are subject to the minimum requirements of Sec. 3.8.6.2.A, shall be credited toward the mitigation requirements of this Section as determined by the size of the Protected Native Plant as listed in Table 3.8.6-I. The preservation credits are in the form of the number of plants that may be used to offset the number of additional plants of that same genus and species required, based on the mitigation requirements, Sec. 3.8.6.2.C. Generally, the preservation of larger Protected Native Plants results in a greater credit toward the mitigation requirements. For example, the preservation-in-place of one twelve (12) foot saguaro results in a credit of three (3) saguaros.
- C. *Mitigation Requirements*. Viable Protected Native Plants harmed by on-site salvage and transplant, off-site removal, or damage or destruction during development shall be mitigated by replacement with a plant or plants of the same genus and species in conformance with Table 3.8.6-I. Plants used for mitigation may either be nursery grown plants, plants which are transported to the site in conformance with the state Native Plant Protection Act, A.R.S. § 3-901, et. seq., or plants salvaged from the site which are not required for the minimum preservation requirements of Sec. 3.8.6.2.A.2 or Sec. 3.8.6.2.A.3. Salvage and transplant on-site of Protected Native Plants which are in excess of the minimum requirements in Sec. 3.8.6.2.A.3 do not require any further mitigation. Each native plant which is salvaged and transplanted on-site to meet the minimum requirements of Sec. 3.8.6.2.A.2 and Sec. 3.8.6.2.A.3 shall be supplemented with one (1) additional plant of the same genus and species as listed in Table 3.8.6-I. Each Viable Protected Native Plant which is removed from the site, damaged, or destroyed during development shall be replaced on-site with an additional number of plants of the same genus and species as determined by Table 3.8.6-I. (*See Table 3.8.6-I.*)

TABLE 3.8.6-I							
PROTECTED NATIVE PLANT PRESERVATION CREDITS AND MITIGATION REQUIREMENTS							
Protected Native Plant ¹	Saguaro	Other Cacti	Ironwood Trees	Other Trees	Ocotillo	Yuccas	Shrubs
Inventory	All	All	≥4" C	≥4" C	≥2' H	≥2' H	≥3' H
Percent Preservation on-Site²	50%	30%	50%	30%	30%	30%	30%
Preservation Credits³	6-10' H = 2 >10' H = 3	≥2' H or D = 2 ⁴	6-12" C = 2 >12" C = 3	6-14" C = 2 >14" C = 4	≥6' = 2	≥4' H or D = 2	≥6' H = 2
Replacement Ratio for RFS⁵	3:1	2:1	3:1	2:1	2:1	2:1	2:1
Mitigation Ratio for TOS⁶	1:1	1:1	1:1	1:1	1:1	1:1	1:1
Replacement Size⁷	From Site: ≥2' H From Nursery: ≥4' H	1' H or D ⁸	15 G	15 G	From Site: ≥2' H From Nursery: ≥4' H	5 G	5 G

≥ = greater than or equal to; C = caliper; D = diameter; G = gallon; H = height; TOS = plants transplanted on-site; and RFS = plants removed from site, damaged, or destroyed

¹See Sec. 3.8.5

²See Sec. 3.8.6.2.A

³See Sec. 3.8.6

⁴Except Pima Pineapple Cactus, Needle-spined Pineapple Cactus, and Desert Night-Blooming Cereus which are credited if preserved at a 4" H or D

⁵Ratio of number of plants required to be replaced to number of plants RFS

⁶Ratio of number of plants required to be supplemented to the number of plants TOS

⁷See Sec. 3.8.6.2.B and .C

⁸Except Pima Pineapple Cactus, Needle-spined Pineapple Cactus, and Desert Night-blooming Cereus which have a minimum replacement size requirement of 4" H or D

3.8.6.3 **Plant Appraisal Methodology.** The preservation and mitigation requirements of the Plant Appraisal Methodology shall be satisfied by the replacement of the monetary value of each genus and species of Protected Native Plant which is removed from the site, damaged, or destroyed with native plants of the same genus and species of equal value which are brought to the site in conformance with the following requirements. The provisions of this subsection may be combined, or used in conjunction, with the Plant Inventory Methodology or the Set Aside Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)

- A. *Site Appraisal.* A plant appraisal shall be prepared which shall identify and state the financial value of each Protected Native Plant which is proposed to be removed from the site, damaged, or destroyed and shall be keyed to the Native Plant Inventory per Development Standard 2-15.3.1. The plant appraisal shall be conducted by a certified arborist according to the most current methods and procedures accepted by the Council of Tree and Landscape Appraisers. A plant professional (see Sec. 3.8.4.4) who can demonstrate competence in appraisal methodologies, through participation in an approved Western International Society of Arboriculture plant appraisal workshop, may also conduct a plant appraisal according to the most current methods and procedures accepted by the Council of Tree and Landscape Appraisers. (Ord. No. 9246, §1, 10/11/99)
- B. *Preservation and Mitigation Requirements.* Protected Native Plants which are proposed to be or are removed from the site, damaged, or destroyed during development shall be replaced by plants of the same genus and species. The Native Plant Preservation Plan shall detail the size and value of replacement plants to demonstrate that the monetary value of replacement plants shall be equal to the monetary value of each genus and species of Protected Native Plant which is removed from the site, damaged, or destroyed. Alternately, plants may be replaced on a one-to-one basis (genus, species, and size) from the site or from nursery/salvage stock to satisfy the requirement of monetary replacement value. (Ord. No. 9246, §1, 10/11/99)
- C. *Expiration of Appraisals.* Appraisals shall be current within six (6) months of submittal of the Native Plant Preservation Plan and shall be valid for a period of two (2) years after the Plan approval date. A revised appraisal value shall be required for development which does not proceed before the two (2) year time limit of the appraisal has expired.
- D. *Amendment of Appraisals.* Where any Protected Native Plant is removed from the site, damaged, or destroyed and is not identified on the appraisal prepared in conformance with Sec. 3.8.6.3.A, the Protected Native Plants shall be appraised pursuant to this Section, and the appraisal shall be amended to include all additional Protected Native Plants removed and their financial value.

3.8.6.4 Set Aside Methodology. The preservation and mitigation requirements of this Division shall be satisfied by the set aside of an area of the site as Natural Undisturbed Open Space (NUOS) in conformance with the following requirements. The provisions of this Section may be combined, or used in conjunction, with the Plant Inventory Methodology and/or the Plant Appraisal Methodology, per Sec. 3.8.6.5, Combined Methodologies. (Ord. No. 9246, §1, 10/11/99)

- A. *Site Assessment.* An Environmental Resource Report (ERR) per Development Standard 1-07.0 and in conformance with Development Standard 2-15.3.5 shall be prepared for the entire site to determine the general viability, density, and variety of Protected Native Plants within areas on the site. The Report shall include an assessment of such areas of NUOS and shall prioritize the natural resource value of vegetated areas on the site in conformance with the intent and purpose of this Division. Any area left undisturbed as provided in Sec. 3.8.6.4.A shall be shown in the Report, and no other assessment need be done for such areas. The natural resource value for an area shall be assessed by the consideration of factors such as: (Ord. No. 9246, §1, 10/11/99)
 - 1. Health, size, density, and variety of native plant species; and
 - 2. The visual resource value of the area(s); and
 - 3. The potential to maximize the preservation of contiguous areas of NUOS both on- and off-site. (Ord. No. 9246, §1, 10/11/99)

- B. *Mitigation Requirements.* A minimum of thirty (30) percent of the site shall be set aside in perpetuity as NUOS area. The set aside area shall consist of the area(s) with the highest resource value as determined by the ERR or area(s) which is left undisturbed and preserved as provided in Sec. 2.8.6. (Ord. No. 9246, §1, 10/11/99)
- C. *Federal Endangered Species, Saguaros, and Ironwood Tree Mitigation Requirements.* The ERR shall include an inventory and analysis of all plants listed as Federal Endangered Species, all Saguaros, and all Ironwoods designated as Protected Native Plants according to Sec. 3.8.5. Preservation and mitigation requirements for these genus and species shall conform to Sec. 3.8.6.2.
- D. *Set Aside Protection.* Boundaries of all set aside areas shall be clearly delineated on an aerial photograph and site plan, development plan, or subdivision plat and fenced per Development Standard 2-06.2.2.F for the duration of any construction activities. (Ord. No. 9246, §1, 10/11/99)

3.8.6.5 Combined Methodologies. The preservation and mitigation requirements of this Division shall be satisfied by one of the following two options.

- A. *Set Aside Methodology Combined with Inventory and/or Appraisal Methodologies.* The preservation and mitigation requirements of this Division shall be satisfied by the set aside of an area of the site as NUOS in conformance with the requirements found in Sec. 3.8.6.4, Set Aside Methodology. An area of up to five (5) percent of the site area may be excluded from the thirty (30) percent set aside area. The excluded area must be contiguous to and within the outer perimeter of the thirty (30) percent set aside area. For the excluded area, the preservation and mitigation requirements of this Division shall be met by utilizing Sec. 3.8.6.2, Plant Inventory Methodology; Sec. 3.8.6.3, Plant Appraisal Methodology; or Sec. 3.8.6.5.B, Inventory/Appraisal Methodology.

Protected Native Plants to be transplanted on-site and/or replacement plants shall be located outside of the set aside area. Protected Native Plants located outside of the set aside area which are preserved in place that are of the same size, genus, and species as those inventoried in the excluded area under Sec. 3.8.6.2 Plant Inventory Methodology may be considered as being preserved in place on a one-to-one basis.

The percent preservation on-site, outside of the set aside area, remains fifty (50) percent for Ironwoods and Saguaros. (See Table 3.8.6-I.)

- B. *Inventory/Appraisal Methodology.* Each genus and species of plants can be addressed by choosing either the Plant Inventory Methodology, Sec. 3.8.6.2, or the Plant Appraisal Methodology, Sec. 3.8.6.3. A summary table shall be submitted showing the methodology chosen for each genus and species of Protected Native Plant found on the site.

(Ord. No. 9246, §1, 10/11/99)

3.8.6.6 General Plant Standards. All replacement plants which are used on the site to satisfy the mitigation requirements of this Section shall meet the following requirements. (Ord. No. 9246, §1, 10/11/99)

- A. *Minimum Size Requirements.* All replacement plants which are brought to the site to satisfy the mitigation requirements of this Section shall meet the following minimum size requirements.
 - 1. Saguaros and Ocotillos shall be at least four (4) feet in height, or if the replacement plants are salvaged and transplanted from the project site, then such plants shall be at least two (2) feet in height.

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2. Trees shall be in at least fifteen (15) gallon containers and shall comply with the minimum sizes as provided by the Arizona Nursery Association Grower's Committee Recommended Average Tree Specifications. (Ord. No. 9246, §1, 10/11/99)
 3. Barrel Cacti (*Ferocactus acanthodes* and *Ferocactus wislizenii*) shall be at least one (1) foot in height or diameter.
 4. All other cacti, except Saguaros, shall be at least four (4) inches in height.
 5. All yuccas and shrubs shall be grown in at least five (5) gallon containers. (Ord. No. 9246, §1, 10/11/99)
- B. *Plant Health Requirements.* All Protected Native Plants which are brought to the site to satisfy the mitigation requirements of this Division shall be in good health and condition and shall be provided with the necessary irrigation and maintenance designed to ensure their establishment and good health for the duration of any stay in a temporary holding area and after placement in a permanent location on-site.
- C. *Placement Requirements.* All Protected Native Plants shall be planted in locations able to support their long-term health and survival and shall be planted in densities and configurations to approximate the natural character of the Sonoran Desert.
- D. *Salvage Requirements.* All plants which are salvaged and transplanted on-site shall be rated as Viable and Transplantable per Development Standard 2-15.3.2 prior to relocation.
- E. *Identification Requirements.* All Protected Native Plants shall be properly tagged and/or permitted in accordance with the Federal Endangered Species Act, the Arizona Native Plant Law, and this Division, as applicable.
- F. *Containerized Plant Requirements.* Containerized plants used to meet the requirements of this Division shall be protected with browse control cages or some other technique proven to be effective in deterring herbivores.

3.8.6.7 Plant Protection During Development. (Ord. No. 9246, §1, 10/11/99)

- A. *Tagging Requirements.* All Protected Native Plants designated by the approved Native Plant Preservation Plan to be preserved-in-place, salvaged and transplanted on-site, or removed from the site for transplant elsewhere shall be tagged with an identification number and flagged with color coding so that final disposition is easily identified per Development Standard 2-15.5.0. (Ord. No. 9246, §1, 10/11/99)
- B. *Fencing Requirements.* All Protected Native Plants designated by the approved Native Plant Preservation Plan to be preserved-in-place and all areas designated to remain undisturbed or as NUOS shall be fenced off per Development Standard No. 2-06.2.2.F. No plants shall be salvaged from within fenced areas per this Section. Fencing shall remain in place for the duration of construction activities. (Ord. No. 9246, §1, 10/11/99)
- C. *Plant Nondisturbance Area.* All plants designated by the approved Native Plant Preservation Plan to be preserved-in-place shall be retained at their existing grade during and after construction for a distance as outlined in Development Standard 2-15.6.0.

- D. *On-Site Monitoring.* On-site monitoring of all aspects of site clearing, grading, plant protection, preservation, salvage, and mitigation shall be provided during project construction at the expense of the developer for all residential development that is over five (5) acres and for all commercial and industrial development that is over one (1) acre. The monitoring shall be performed by an individual who is qualified in arid lands native plant resource identification and protection as specified in Sec. 3.8.4, General Provisions and Requirements. The monitor shall provide periodic progress reports to the developer outlining the status of work accomplished and any problems encountered. A copy of these reports shall be submitted to the Development Services Department (DSD) for the project file. (Ord. No. 9392, §1, 5/22/00)
- E. *Submittal Compliance.* The monitor shall be responsible for an assessment of the condition of the site's plants one (1) year after the final inspection has been performed on the site. The monitor shall visit the site and prepare a report on plant status, including general plant condition, the identification of plants under stress and the appropriate method to relieve the stress, and recommendations for replacement of plants that are dead or dying. Dead or dying plants shall be replaced with the same size plant at a one-to-one (1:1) ratio of like genus and species. Copies of the report shall be submitted to the site owner/developer and to the Development Services Department (DSD). The owner shall respond to the plant needs as outlined in the status report within six (6) months of report submittal or within a shorter period if required to improve the health of stressed plants and prevent plant loss. (Ord. No. 9392, §1, 5/22/00)

3.8.7 ENFORCEMENT, PENALTIES, FINES, AND OTHER REMEDIES. In addition to the provisions of Sec. 5.5.3, any violation of this Division shall be subject to the following enforcement, penalties, fines, and other remedies.

3.8.7.1 Fines. Any person who, individually or through the acts of another person, intentionally or negligently damages, destroys, or removes from the site any Protected Native Plant, except as authorized by an approved Native Plant Preservation Plan, shall be subject to the following.

- A. A fine as determined for the damage, destruction, or removal from the site of each Protected Native Plant based upon the following schedule:
1. For each Viable Saguaro: a minimum of two hundred dollars (\$200) per foot of main trunk and two hundred dollars (\$200) per foot of each arm with a maximum not to exceed two thousand five hundred dollars (\$2,500) per Saguaro.
 2. For each Viable Protected Native Tree or Shrub: a minimum of three hundred dollars (\$300) per caliper inch measured at six (6) inches for single-trunked specimens and twelve (12) inches for multitrunked specimens above grade level at the base of the tree with a maximum not to exceed two thousand five hundred dollars (\$2,500) per tree or shrub. (Ord. No. 9246, §1, 10/11/99)
 3. For all other Viable Protected Native Cacti or Succulents: a minimum of three hundred dollars (\$300) per specimen with a maximum not to exceed two thousand five hundred dollars (\$2,500) per cactus.
- B. A fine of not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) if plant materials are damaged, destroyed, or removed from the site prior to approval of a Native Plant Preservation Plan.

3.8.7.2 Additional Penalties. Any person who, individually or through the acts of another person, intentionally or negligently damages, destroys, or removes from the site any Protected Native Plant, except as authorized by an approved Native Plant Preservation Plan, may be subject to one or more of the following, in addition to any fines imposed per Sec. 3.8.7.1.

- A. Mitigation in accordance with Sec. 3.8.6.4 and any supplemental mitigation determined to be appropriate to restore the natural habitat and plant communities which have been damaged, destroyed, or removed from the site.
- B. Supplemental maintenance and monitoring requirements for Protected Native Plants following the final inspection performed on the site for a period not to exceed eight (8) years.
- C. Revocation of zoning compliance for any building permits which have been issued for the development.
- D. Immediate suspension by the Development Services Department (DSD) Director of any permits issued by the City for development of the property. Any such suspension shall remain in effect until permits expire unless the violation is mitigated in accordance with this Division in a manner which is satisfactory to the DSD Director. The decision by the DSD Director to suspend any permit, or to reject a proposal to provide the mitigation necessary for the reinstatement of the permits, shall be appealable pursuant to DSD established procedures. (Ord. No. 9392, §1, 5/22/00)

3.8.7.3 Recording of Permit Suspension or Revocation. Where any permit issued by the City is suspended until its expiration pursuant to Sec. 3.8.7.2.D, no new permit shall be issued for the property until any fines issued pursuant to Sec. 3.8.7.1 have been fully paid and/or all mitigation required by Sec. 3.8.7.2.A has been fully performed. A notice of this requirement for the issuance of any future development permit on the property shall be recorded on the property by the Development Services Department (DSD) Director with the Pima County Recorder. (Ord. No. 9392, §1, 5/22/00)

3.8.8 ADMINISTRATION.

3.8.8.1 Review Procedures. The applicant is encouraged to schedule a presubmittal conference with staff from the Development Services Department (DSD) with reference to specific design or review procedures. Prior to approval of any permits for grubbing, grading, or construction and prior to submittal of the Native Plant Preservation Plan, approval of designated utility easement locations from the utility providers is required. The requirement to provide information on utility easement locations may be waived under hardship conditions. Native Plant Preservation Plans are reviewed in the same manner and concurrent with other applicable plan review required for development approval. Comments on the Plans and requests for corrections or resubmittals are made in conjunction with responses to the applicable development plan, tentative plat, or site plan. (Ord. No. 9392, §1, 5/22/00)

3.8.8.2 Site Inspection and Enforcement. All landscape requirements of this Division will be inspected for compliance per Sec. 3.7.7.4.

3.8.8.3 Variances. The Design Review Board (DRB) shall review all variance requests from the Native Plant Preservation regulations as provided in Sec. 5.1.8.3.I and shall forward its recommendation in accordance with Sec. 5.1.8.2.F. (Ord. No. 9179, §1, 12/14/98; Ord. No. 9967, §3, 7/1/04)

(Ord. No. 8845, §1, 03/24/97; Ord. No. 9246, §1, 10/11/99)